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EXAMINER	
BROMELL, ALEXANDRIA Y	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/547,689	PERCY, RICHARD	
	Examiner	Art Unit	
	ALEXANDRIA Y. BROMELL	2167	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 October 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *92 - 107* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *92 - 107* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *02 September 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Group II, claims 92 - 107 in the reply filed on October 29, 2008 is acknowledged.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 92 - 107 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 92 - 107 are rejected under 35 USC 101 for being "software per se".

The claimed invention as in claims 92 - 107 is addressed to "a host system for providing information stored on electronic or other form" that can be interpreted as referring to lines of programming within a computer system, rather than referring to the system as a physical object. The claimed invention is directed to, "means for classifying" and "means for encoding," therefore, the claims are deemed to read as pure software systems, with no clear limitations that read on some sort of hardware.

In view of Applicant's disclosure, specification paragraphs [0122], the present invention may be embodied in software or by a human operator.

Accordingly, the claim may become nothing more than a set of software instructions which are "software per se".

"Software per se" is non-statutory under 35 USC 101 because it is merely a set instruction without any defined tangible output or tangible result being produced. The requirement for tangible result under 35 USC 101 is defined in *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 149 F.3d 1368, 47USPQ2d 1596 (Fed. Cir. 1998).

According to MPEP 2106:

The claims lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 USC 101. They are clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category. They are, at best, functional descriptive material per se.

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." Both types of "descriptive material" are nonstatutory when claimed as descriptive material per se, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare In re Lowry, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994).

Merely claiming nonfunctional descriptive material, i.e., abstract ideas, stored on a computer-readable medium, in a computer, or on an electromagnetic carrier signal, does not make it statutory. See Diehr, 450 U.S. at 185-86, 209 USPQ at 8 (noting that the claims for an algorithm in Benson were unpatentable as abstract ideas because "[t]he sole practical application of the algorithm was in connection with the programming of a general purpose computer").

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 92, 96, 99, 103 – 104, and 107 are rejected under 35 U.S.C. 102(e) as being anticipated by Kent A. Spackman et al. (U.S. Patent 6,438,533), hereinafter, "Spackman."

With respect to claim 92, Spackman teaches means for classifying information according to subject terms (i.e. medical terms and codes are classified, column 1, lines 57 - 64), means for encoding subject terms with codes (i.e. terms are encoded into one group, column 2, lines 39 - 51), wherein each

code comprises one or more alpha-numeric sub-codes in a hierarchical structure (i.e. alphanumeric codes are used with hierarchical data structures, column 2, lines 28 - 37), means for storing codes and information or links associated with said codes in a database (i.e. records are stored using database structure, column 5, lines 45 - 46), means for receiving a code from a user's communications device, means for recognizing the code as a request for information, means for parsing the code (i.e. query is submitted to identify which concepts in the records are similar to terms in the terminology knowledge base, column 10, lines 53 - 63), means for retrieving information from one or more databases or servers by using the information or links associated with the code (i.e. information can be retrieved based on the hierarchical links of concepts, column 14, lines 28 - 34), and means for transmitting the retrieved information to the user's communications device (i.e. retrieved information, or output, is transmitted to a device, column 5, lines 52 - 67).

With respect to claim 96, Spackman teaches that wherein all of said sub-codes have the same data structure (i.e. the same codes are used for similar data structures for strict hierarchies, column 2, lines 28 - 38).

With respect to claim 99, Spackman teaches wherein the sub-codes and/or codes are used to navigate to desired or associated links or information (i.e. information can be retrieved based on the hierarchical links of concepts, column 14, lines 28 - 34).

With respect to claim 103, Spackman teaches wherein one or more of said codes are distributed together with information and/or products (i.e. codes are available in the knowledgebase to link concepts, column 7, lines 1 - 9).

With respect to claim 104, Spackman teaches wherein an indexing function is provided at each level of said hierarchical structure (i.e. indexing is done to receive and store record information, column 2, lines 3).

With respect to claim 107, Spackman teaches wherein codes complemented by subject-terms are used to search for, access or receive information (i.e. query is submitted to identify which concepts in the records are similar to terms in the terminology knowledge base, column 10, lines 53 - 63.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 93 – 95, 97 – 98, 100 – 102, and 105 – 106 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kent A. Spackman et al. (U.S. Patent 6,438,533), hereinafter, "Spackman," in view of ACM ("The ACM Computing Classification System (1998)", December 1998, pages 1-30).

With respect to claim 93, Spackman does not explicitly disclose the two digit codes in a hierarchical level as claimed. However, ACM teaches wherein a code comprising n sub-codes provide for n levels in the hierarchical structure (i.e. bullet A: General Literature, has 4 levels of sub-codes in the hierarchical structure, subcode 0, 1, 2, and m, page 1).

Spackman and ACM are from the same field of endeavor of allowing data to be classified. At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the teachings of Spackman with the teachings of ACM in order to show a detailed view of how the documents are classified (ACM, page 1). The motivation for doing so would have been to show the classification codes and sub-codes (ACM, page 1). Therefore, it would have been obvious to combine ACM with Spackman to obtain the invention as specified in the instant claims.

With respect to claim 94, Spackman does not explicitly disclose the two digit codes in a hierarchical level as claimed. However, ACM teaches wherein said sub- codes comprise a two digit code (i.e. sub-codes may be made up of two digits, see I.2.10, with 10 being the sub-code, page 22).

At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the teachings of Spackman with the teachings of ACM in order to show a detailed view of how the documents are classified (ACM, page 1). The motivation for doing so would have been to show the classification codes and sub-codes (ACM, page 1).

With respect to claim 95, Spackman does not explicitly disclose the two digit codes in a hierarchical level as claimed. However, ACM teaches wherein said sub- codes comprise a two digit code (i.e. sub-codes may be made up of two digits, see I.2.10, with 10 being the sub-code, page 22).

At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the teachings of Spackman with the teachings of ACM in order to show a detailed view of how the documents are classified (ACM, page 1). The motivation for doing so would have been to show the classification codes and sub-codes (ACM, page 1).

With respect to claim 97, Spackman does not explicitly disclose the two digit codes in a hierarchical level as claimed. However, ACM teaches wherein the codes include a sequence of one or more of said numeric or alpha-numeric sub-codes (i.e. codes include at least one alpha-numeric or numeric sub-code, A.2 or A.m, page 1).

At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the teachings of Spackman with the teachings of ACM in order to show a detailed view of how the documents are classified (ACM, page 1). The motivation for doing so would have been to show the classification codes and sub-codes (ACM, page 1).

With respect to claim 98, Spackman does not explicitly disclose the two digit codes in a hierarchical level as claimed. However, ACM teaches wherein the codes include a sequence of two digit sub-codes (i.e. sub-codes may be made up of two digits, see I.2.10, with 10 being the sub-code, page 22).

At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the teachings of Spackman with the teachings of ACM in order to show a detailed view of how the documents are classified (ACM, page 1). The motivation for doing so would have been to show the classification codes and sub-codes (ACM, page 1).

With respect to claim 100, Spackman does not explicitly disclose the two digit codes in a hierarchical level as claimed. However, ACM teaches wherein each of the sub-codes at each level of the hierarchical structure is associated with a certain subject-term (i.e. nodes at each level in the hierarchy are associated with a certain subject, the subject for B.1.1 is control Design Styles, page 1).

At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the teachings of Spackman with the teachings of ACM in order to show a detailed view of how the documents are classified (ACM, page 1). The motivation for doing so would have been to show the classification codes and sub-codes (ACM, page 1).

With respect to claim 101, Spackman does not explicitly disclose the two digit codes in a hierarchical level as claimed. However, ACM teaches wherein the codes consist solely of a combination of said sub-codes (i.e. A. General Literature, is a combination of alpha and numeric sub codes to produce A.0, A.1, A.2, and A.m, page 1).

At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the teachings of Spackman with the teachings of ACM in

order to show a detailed view of how the documents are classified (ACM, page 1). The motivation for doing so would have been to show the classification codes and sub-codes (ACM, page 1).

With respect to claim 102, Spackman does not explicitly disclose the two digit codes in a hierarchical level as claimed. However, ACM teaches wherein information assigned a particular code relates either: i) to the subject-term associated with said particular code if the code includes a single sub-code (i.e. A.1 includes only one single sub-category, page 1), or ii) to all subject-terms associated with all sub-codes of said particular code if the code includes more than one sub-code (i.e. B.1.4 also includes D.2.2, D.2.4, D.3.2, and D.3.4, page 1).

At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the teachings of Spackman with the teachings of ACM in order to show a detailed view of how the documents are classified (ACM, page 1). The motivation for doing so would have been to show the classification codes and sub-codes (ACM, page 1).

With respect to claim 105, Spackman does not explicitly disclose the two digit codes in a hierarchical level as claimed. However, ACM teaches wherein at each level of said hierarchical structure data related to subject-terms associated with the sub-codes are available upon entering a particular sub-cod (i.e. when you access B.1.1, Control Design Styles, you also have access to Hardwired Control, Microprogrammed Logic arrays, and Writable Control Store, page 1).

At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the teachings of Spackman with the teachings of ACM in order to show a detailed view of how the documents are classified (ACM, page 1). The motivation for doing so would have been to show the classification codes and sub-codes (ACM, page 1).

With respect to claim 106, Spackman does not explicitly disclose the two digit codes in a hierarchical level as claimed. However, ACM teaches wherein one or more of the sub-codes are converted into the associated subject-terms (i.e. sub codes correspond with the section titles or categories, for example, everyone would know that B.1.5 deals with Microde Applications, page 1).

At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the teachings of Spackman with the teachings of ACM in order to show a detailed view of how the documents are classified (ACM, page 1).

Conclusion/Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALEXANDRIA Y. BROMELL whose telephone number is (571)270-3034. The examiner can normally be reached on M-F 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R. Cottingham can be reached on 571-272-7079. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alexandria Y Bromell/
Examiner, Art Unit 2167
January 29, 2009

/S. A. A./
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